

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JONATHAN MONSARRAT,
Plaintiff,

v.

CIVIL ACTION NO.
17-10356-PBS

BRIAN ZAIGER,
Defendant.

SHOW CAUSE ORDER

July 20, 2018

BOWLER, U.S.M.J.

In May 2017, defendant Brian Zaiger ("Zaiger") filed an answer and a counterclaim against plaintiff Jonathan Monsarrat ("Monsarrat") for misrepresentation under the Digital Millennium Copyright Act, 17 U.S.C. § 512(f) ("section 512(f)"). (Docket Entry # 24). In January 2018, Monsarrat moved for a judgment on the pleadings on the counterclaim (Docket Entry # 90), which Zaiger opposed (Docket Entry # 96). After the court denied a motion for attorney's fees filed by Zaiger (Docket Entry ## 116, 124), on May 18, 2018 this court allowed a motion to withdraw filed by Zaiger's counsel (Docket Entry ## 130, 135). In a formal notice of withdrawal filed by Zaiger's counsel on May 25, 2018, counsel avers that, under his direction, a copy of the file was mailed to "Zaiger at his last known address, 4 Davis Street, Apartment 3, Beverly, Massachusetts" by certified first class mail with a return receipt requested. (Docket Entry # 139-1).

Zaiger's conduct thereafter evidences, inter alia, a disregard for court operations. On June 15, 2018, rulings mailed to Zaiger's address of record in Beverly were returned to the

court marked "undeliverable." (Docket Entry # 140). As a result, this court canceled a status conference scheduled for June 18, 2018. On June 27, 2018, the Clerk again mailed a copy of the aforementioned rulings along with a notice of a July 12, 2018 status conference by certified mail to plaintiff at his Beverly address of record and to a different address obtained from an original affidavit of service (Docket Entry # 14). (Docket Entry # 143). Both notices were returned to the court marked "undeliverable." (Docket Entry ## 144, 146). Zaiger did not appear at the July 12, 2018 conference, at which time this court took the various pending motions (Docket Entry ## 90, 93, 104) under advisement. It therefore appears that Zaiger no longer wishes to prosecute the section 512(f) counterclaim.

Zaiger is therefore **ORDERED** to: (1) provide this court with an accurate address on or before August 2, 2018; and (2) show cause on or before August 2, 2018 why this court should not allow the motion for judgment on the pleadings and/or dismiss the counterclaim with prejudice for want of prosecution. A failure to comply with this Order in full by responding to items one and two may result in sanctions, including allowing the motion and/or dismissing the counterclaim. The Clerk shall send this Order to Zaiger by certified mail to each address.

/s/ Marianne B. Bowler
MARIANNE B. BOWLER
United States Magistrate Judge